

REMARKS

This Application has been carefully reviewed in light of the Final Office Action mailed March 14, 2008. At the time of the Final Office Action, Claims 12-17 were pending in this Application. Claims 1-11 were previously cancelled without prejudice or disclaimer. Claims 12-17 were rejected. Claims 12 and 15-17 have been amended. Claim 14 has been cancelled without prejudice. Claims 18-24 have been added. New independent claims 18 and 21 are based on independent claim 12 and are in the form of apparatus claims. Thus, no new matter has been introduced. Applicant respectfully requests reconsideration and favorable action in this case.

Rejections under 35 U.S.C. §103

Claims 12-17 were rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent 6,349,201 issued to Sean Ford ("Ford") in view of U.S. Patent 6,477,372 issued to Marcia J. Otting et al. ("Otting"). Applicants respectfully traverse and submit the cited art combinations, even if proper, which Applicants do not concede, does not render the claimed embodiment of the invention obvious.

In order to establish a prima facie case of obviousness, the references cited by the Examiner must disclose all claimed limitations. *In re Royka*, 490 F.2d 981, 180 U.S.P.Q. 580 (C.C.P.A. 1974). Even if each limitation is disclosed in a combination of references, however, a claim composed of several elements is not proved obvious merely by demonstrating that each of its elements was, independently, known in the prior art. *KSR Int'l Co. v. Teleflex Inc.*, 127 S.Ct. 1727, 1741 (2007). Rather, the Examiner must identify an apparent reason to combine the known elements in the fashion claimed. *Id.* "Rejections on obviousness grounds cannot be sustained by mere conclusory statements; instead, there must be some articulated reasoning with some rational underpinning to support the legal conclusion of obviousness." *Id.*, citing *In re Kahn*, 441 F.3d 977, 988 (Fed. Cir. 2006). Finally, the reason must be free of the distortion caused by hindsight bias and may not rely on ex post reasoning. *KSR*, 127 S.Ct. at 1742. In addition, evidence that such a combination

was uniquely challenging or difficult tends to show that a claim was not obvious. *Leapfrog Enterprises, Inc. v. Fisher-Price, Inc. and Mattel, Inc.*, 485 F.3d 1157, 1162 (Fed. Cir. 2007), citing *KSR*, 127 S.Ct. at 1741.

Applicant amended the independent claim to include the limitations:

- if a cellular communication network is available, using the cellular network;
- in case that no cellular communication network is available, enabling a module for broadcasting over a global safety communication network;
- in case that more than one global safety communication network is existent, selecting one of the global safety communication networks;
- in case that only one global safety communication network is available, selecting this global safety communication network,

These limitations are disclosed in the originally submitted specification, for example, on page 6, paragraph [0025]-[0032]. thus, no new matter has been disclosed.

The Examiner stated that *Ford* discloses a communication device with all the limitations of the independent claim 12 except for the step of detecting at least one available communication network. Applicant amended independent claim 12 as stated above. Thus, the communication device must be operable to communicate with a normal cellular communication network and further comprise a module for broadcasting over a global safety communication network. Neither *Ford* nor *Otting* disclose a communication device that comprises such a module.

Hence, Applicant believes that all independent claims are allowable in view of the cited prior art. Applicants respectfully submit that the dependent Claims are allowable at least to the extent of the independent Claim to which they refer, respectively. Thus, Applicants respectfully request reconsideration and allowance of the dependent Claims. Applicants reserve the right to make further arguments regarding the Examiner's rejections under 35 U.S.C. §103(a), if necessary, and do not concede that the Examiner's proposed combinations are proper.

Request for Continued Examination (RCE)

Applicant submits herewith a Request For Continued Examination (RCE) Transmittal, and the Commissioner is hereby authorized to charge the \$810.00 filing fee to Deposit Account No. 50-2148 of Baker Botts L.L.P.

Petition for Extension of Time

Applicant submits herewith a Petition for Two-Month Extension of Time Request, and the Commissioner is hereby authorized to charge the \$450.00 filing fee to Deposit Account No. 50-2148 of Baker Botts L.L.P.

Association of Customer Number and Change of Correspondence Address

Applicant respectfully requests that all papers pertaining to the above-captioned patent application be associated with Customer No. **31625**, and direct all correspondence pertaining to this patent application to practitioners at Customer Number **31625**. All telephone calls should be directed to Andreas Grubert at 512.322.2545. A Revocation and Power of Attorney will be filed shortly.

CONCLUSION

Applicant has made an earnest effort to place this case in condition for allowance in light of the remarks set forth above. Applicants respectfully request reconsideration of the pending claims.

Applicant believes there are no additional fees due at this time, however, the Commissioner is hereby authorized to charge any fees necessary or credit any overpayment to Deposit Account No. 50-2148 of Baker Botts L.L.P.

If there are any matters concerning this Application that may be cleared up in a telephone conversation, please contact Applicant's attorney at 512.322.2545.

Respectfully submitted,
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Date: August 14, 2008

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